

TELEPHONE COMPANY PROPERTY TAX

A. INTRODUCTION

In general, property taxes are assessed and collected at the local level. However, the telephone company property tax is a state levy on the real and tangible personal property used in providing telecommunications. The tax is designed to approximate the local property tax that would be levied on telephone property if telephone property were subject to local property tax. Telephone property is assessed by the Wisconsin Department of Revenue and is taxed at the prior year's net property tax rate of the taxing jurisdiction in which the telephone property is located. Telephone company property taxes are deposited in the state General Fund.

B. HISTORY OF TELEPHONE COMPANY TAXATION

The state began taxing telephone companies in 1883 by requiring them to obtain an annual license fee, calculated as 1% of gross revenues. Beginning in 1905, telephone companies were required to report gross receipts separated into exchange receipts and toll receipts. The municipality in which each exchange was located received 85% of the tax on the exchange revenue generated by that exchange and the state retained the balance of the tax on exchange revenue and all taxes on toll revenue as general purpose revenue.

Beginning in 1972, 85% of the taxes on exchange revenues were deposited in the "Tax Sharing Account" and distributed by formula based on population and the value of all property in the local jurisdiction rather than returned to the municipality in which the exchange was located. The percentage of taxes on exchange revenues deposited in the "Tax Sharing Account" was reduced to 77.5% in 1975 and to zero in 1978. Since 1978, all telephone taxes have been deposited into the state General Fund.

Telephone companies continued to be taxed on their gross revenues until 1998, when they began a transition to the current tax on their real and tangible personal property. The transition was motivated by several factors, including technological and regulatory changes that had been transforming the industry for at least two decades and, specific to Wisconsin, the 1990 judgment against the state in *GTE Sprint (n.k.a. U.S. Sprint Communications Company) v. Wisconsin Bell*. Under *GTE Sprint* the state was obligated to refund millions of dollars of sales taxes on access charges. In settlement of the claims for refunds, the state agreed to change the way interexchange carriers (i.e., long distance companies) and resellers would be taxed; that is, interexchange carriers and resellers would be subject to a property tax instead of a tax on their gross revenues.

Interexchange carriers and resellers were scheduled to become subject to a state property tax beginning in 1997 while local exchange and cellular companies would continue to pay gross revenues taxes. However, recognizing that a dual system of telephone taxation would result in unequal treatment of telephone companies, the law was amended in 1995. Under the 1995 law, all telephone companies would become subject to property taxes in 1998, but local exchange and cellular companies would also pay transitional adjustment fees in 1998 and 1999. The transitional adjustment fees plus the telephone property taxes paid by local exchange and cellular companies equaled the amount of gross revenues

taxes the company would have paid under prior law. Thus, the transitional adjustment fee had the effect of keeping local exchange and cellular companies on the gross revenues tax until 2000.

C. EXEMPTIONS

The telephone company property tax is designed to tax telephone company property as much as possible like locally taxed property so that telephone companies are neither advantaged nor disadvantaged compared with companies subject to local property taxes. Thus, the exemptions for locally assessed property apply also to telephone companies with two exceptions—computerized equipment and mixed-use buildings.

Computers, computerized equipment and software owned by companies subject to local property taxes are exempt from general property tax. However, for telephone companies, only computers, computerized equipment and software used for general business purposes, such as personnel and planning, are exempt from the telephone company property tax. Since a large proportion of telephone company is computerized, the computer exemption for telephone companies was limited to avoid eliminating much of the telephone company tax base. Beginning in 2003, telephone companies' cash registers and fax machines, excluding fax machines that are also copiers, are exempt.

Also beginning in 2003, property that is used less than 50% in the operation of a telephone company is exempt from the telephone property tax. However, such property is subject to local property taxes. Property that is used more than 50% in the operation of a telephone company is subject to the telephone property tax and exempt from local property taxes. This "winner take all" approach applies primarily to real property and is expected to be more efficient than allocating the assessment of mixed-use property between the state and local assessment rolls. For example, under prior law, if two stories of a six-story building were used for telephone purposes and the remaining four stories leased to companies that do not provide telecommunications, the assessed value of the building would be split between the state (1/3) and local (2/3) assessment rolls. Beginning in 2003, the assessed value of the entire building will be entered on the local assessment roll.

D. ADMINISTRATION

Telephone companies report the location, cost, age and other information regarding their taxable real and tangible personal property to the Department of Revenue each year by March 1, unless the filing due date has been extended for up to 30 days. The Department assesses the property as of January 1 of that year using the methods used to assess manufacturing property. On or before October 1, the Department notifies each telephone company of the assessed value of its taxable property, and on or before November 1, notifies each company of the amount of tax on its property.

Telephone taxes are paid in two installments; the first is an estimated payment and the second is the unpaid balance. On May 10 of the assessment year, payment of at least 50% of the prior year's tax or 40% of the tax for the current year is due. Payment of the balance of the tax is due on November 10.

The telephone property tax is designed to be equivalent to the local property tax that would be levied if telephone property were locally assessed. However, local property tax rates often are not determined until December, a month after the second telephone property tax payment is due. Therefore, telephone property taxes are calculated using the prior year's net tax rate of the taxing jurisdiction in which the property is located.

A telephone company may appeal its assessment directly to the Dane County Circuit Court. In contrast, owners of locally assessed property appeal first to the local board of review before filing an appeal with the circuit court.

E. OTHER STATES

State telephone tax systems differ widely—some states levy gross revenues taxes, others levy property taxes and some do both. Among states that tax telephone company property, property is assessed by the state in some and locally assessed in others.

Of Wisconsin's neighbors, Iowa and Michigan tax telephone company property similar to Wisconsin. In Iowa, telephone company real property, central office equipment and outside lines are state assessed and taxed at 100% of market value. Beginning in tax year 2005, Michigan will tax telephone company real and tangible personal property at the level of comparable locally assessed property.

In Illinois and Minnesota, telephone company real property is assessed and taxed locally (personal property is exempt). Illinois levies a state "telecommunications maintenance infrastructure fee" of 0.5% of telephone company gross revenues in addition to local property taxes.

F. STATISTICAL SECTION

Table 1 shows telephone company gross revenues license fees, transitional adjustment fees and property taxes for recent fiscal years. The table shows that the transition from gross revenues license fees to the telephone company property tax has reduced the tax burden on telephone companies by at least half.

TABLE 1
TELEPHONE COMPANY LICENSE FEES AND
PROPERTY TAXES, FY95-FY04
(\$ millions)

Fiscal Year	Type of Fee/Tax	Amount of Fee/Tax
FY95	Gross revenues license fees only	\$149.4
FY96	Gross revenues license fees only	160.1
FY97	Gross revenues license fees only	176.5
FY98	State property tax and transitional adjustment fees	158.5
FY99	State property tax and transitional adjustment fees	149.7
FY00	State property tax and transitional adjustment fees	114.7
FY01	State property tax only	80.4
FY02	State property tax only	86.6
FY03	State property tax only	106.3
FY04	State property tax only	81.6

There are about 250 telephone companies in Wisconsin. At one time each company provided a specific service, such as local exchange or long distance calling. However, telephone companies now offer customers packages of services that include local and long distance service, cellular service, data services and Internet access. A company may provide all services in-house, it may create a subsidiary, or it may purchase services wholesale from another company and resell the services under its own brand name. In any event, identifying companies by type is essentially arbitrary and of limited usefulness.

Telephone company real and tangible personal property was valued at over \$4 billion in 2004. Table 2 shows the distribution of that property by broad classes of property among types of municipalities. Real property is only about 11% of total telephone company property value. Personal property, the remaining 89% of telephone company property, consists of outside plant (e.g., poles, wires, conduits and cables), cellular and long-distance towers, and "all other personal property". Switching equipment is by far the main component of "all other personal property".

TABLE 2
DISTRIBUTION OF TELEPHONE PROPERTY
AMONG MUNICIPALITIES, 2004
(\$ millions)

	Towns	Villages	Cities	Total
Real Property	\$50.1	\$48.0	\$330.2	\$428.3
Outside Plant (cables & wires)	801.2	142.6	479.3	1,423.1
Towers	101.2	23.6	87.4	212.2
All Other Personal Property	426.2	267.5	1,306.0	1,999.8
TOTAL	\$1,378.7	\$481.8	\$2,202.9	\$4,063.3

About 54% of total telephone property value is located in cities, including about 77% of real property value and about 65% of "all other personal property" value. About 56% of outside plant value and about 48% of tower value are located in townships.

G. CURRENT ISSUES IN TELEPHONE COMPANY TAXATION

Reporting telephone company property by the locality in which the property is located is costly for telephone companies. In addition, analyzing those data and developing telephone property assessments is costly for the state. To reduce the number of returns telephone companies file with the department, beginning in 2005, telephone company personal property will be allocated to each municipality based on the original cost of the telephone personal property in that municipality. Telephone real property will continue to be reported by the municipality in which it is located. Telephone property will be taxed at the prior year's net tax rate of the municipality to which the property was allocated or in which it was reported.

The federal Internet Tax Nondiscrimination Act prohibiting taxes on Internet access does not affect property taxes; it applies only to sales and gross receipts-type taxes.

The expected deployment of Voice over Internet Protocol (VoIP) over the next few years will not affect telephone property taxes directly. However, VoIP is more efficient than the current public switched telephone network. To the extent VoIP requires less equipment than currently, taxable telephone property value may decrease.